

§ 68.80

command of the U.S.-built barge through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(iii) That the barge is qualified to engage in the coastwise trade and that it is owned by a person eligible to own vessels documented under 46 U.S.C. 12102(e).

(3) A copy of the charter, which must provide that the charterer is deemed to be the owner *pro hac vice* for the term of the charter.

(b) The charterer must submit the following to the National Vessel Documentation Center:

(1) A certificate certifying that the charterer is a citizen of the United States for engaging in the coastwise trade under 46 U.S.C. app. 802.

(2) Detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship. The citizenship information must be signed by, or on behalf of, the charterer.

(c) Whenever a charter under paragraph (a) of this section is amended, the barge owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10 days after the effective date of the amendment.

(d) Whenever the charterer of a barge under paragraph (a) of this section enters into a sub-charter that is a demise charter with another person for the use of the barge, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter and the sub-charterer must provide detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship.

(e) Whenever the charterer of a barge under paragraph (a) of this section enters into a sub-charter other than a demise charter with another person for the use of the barge, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after a request by the Director to do so.

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(f) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122 and 18 U.S.C. 1001.

§ 68.80 Invalidation of a coastwise endorsement.

In addition to the events in § 67.167(c)(1) through (c)(9) of this chapter, a Certificate of Documentation together with a coastwise endorsement under this subpart becomes invalid when—

(a) The owner fails to make the certification required by § 68.65 or ceases to meet the requirements of the certification on file;

(b) The demise charter expires or is transferred to another charterer; or

(c) The citizenship of the charterer or sub-charterer changes to the extent that they are no longer qualified for a coastwise endorsement.

Subpart D—Vessels With a Coastwise Endorsement Issued Before August 9, 2004, and Their Replacements That Are Demised Chartered to Coastwise-Qualified Citizens

SOURCE: USCG-2005-20258, 71 FR 61421, Oct. 18, 2006, unless otherwise noted.

§ 68.100 Purpose and applicability.

(a) This subpart contains requirements for the documentation of U.S.-built vessels in the coastwise trade that were granted special rights under the Coast Guard and Maritime Transportation Action of 2004 (Pub. L. 108-293).

(b) This subpart applies to—

(1) A vessel under a demise charter that was eligible for, and received, a document with a coastwise endorsement under § 67.19 of this chapter and 46 U.S.C. 12106(e) before August 9, 2004;

(2) A barge deemed eligible under 46 U.S.C. 12106(e) and 12110(b) to operate in coastwise trade without being documented before August 9, 2004; and

(3) A replacement vessel of a similar size and function for any vessel under paragraphs (b)(1) through (b)(3) of this section.

(c) Except for vessels under paragraph (d) of this section, this subpart

applies to a certificate of documentation, or renewal of one, endorsed with a coastwise endorsement for a vessel under 46 U.S.C. 12106(e) or a replacement vessel of a similar size and function that was issued before August 9, 2004, as long as the vessel is owned by the person named in the certificate, or by a subsidiary or affiliate of that person, and the controlling interest in the owner has not been transferred to a person that was not an affiliate of the owner as of August 9, 2004.

(d) With respect to offshore supply vessels with a certificate of documentation endorsed with a coastwise endorsement as of August 9, 2004, this subpart applies until August 9, 2007. On and after August 9, 2007, subpart C of this part applies to these vessels.

§ 68.103 Definitions.

In addition to the terms defined in § 67.3 of this chapter, as used in this subpart—

Affiliate means a person that is less than 50 percent owned or controlled by another person.

Group means the person that owns a vessel, the parent of that person, and all subsidiaries and affiliates of the parent of that person.

Offshore supply vessel means a motor vessel of more than 15 gross tons but less than 500 gross tons as measured under 46 U.S.C. 14502, or an alternate tonnage measured under 46 U.S.C. 14302 as prescribed under 46 U.S.C. 14104, that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

Operation or management of vessels means all activities related to the use of vessels to provide services. These activities include ship agency; ship brokerage; activities performed by a vessel operator or demise charterer in exercising direction and control of a vessel, such as crewing, victualing, storing, and maintaining the vessel and ensuring its safe navigation; and activities associated with controlling the use and employment of the vessel under a time charter or other use agreement. It does not include activities directly associated with making financial invest-

ments in vessels or the receipt of earnings derived from these investments.

Parent means any person that directly or indirectly owns or controls at least 50 percent of another person. If an owner's parent is directly or indirectly controlled at least 50 percent by another person, that person is also a parent of the owner. Therefore, an owner may have multiple parents.

Person means an individual; corporation; partnership; limited liability partnership; limited liability company; association; joint venture; trust arrangement; and the government of the United States, a State, or a political subdivision of the United States or a State; and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Primarily engaged in leasing or other financing transactions means lease financing, in which more than 50 percent of the aggregate revenue of a person is derived from banking, investing, lease financing, or other similar transactions.

Replacement vessel means—

(1) A temporary replacement vessel for a period not to exceed 180 days if the vessel described in § 68.50 is unavailable due to an act of God or a marine casualty; or

(2) A permanent replacement vessel if—

(i) The vessel described in § 68.50 is unavailable for more than 180 days due to an act of God or a marine casualty; or

(ii) A contract to purchase or construct a replacement vessel is executed not later than December 31, 2004.

Sub-charter means all types of charters or other contracts for the use of a vessel that are subordinate to a charter. The term includes, but is not limited to, a demise charter, a time charter, a voyage charter, a space charter, and a contract of affreightment.

Subsidiary means a person at least 50 percent of which is directly or indirectly owned or controlled by another person.